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Supreme Court, U.S.
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Docket Number _____

SUPREME COURT OF THE UNITED STATES

Jacob C. Springer, US Army (Ret.)
Petitioner

v.

Steve Perryman, in His Official Capacity as Circuit Judge, Randolph County, Alabama, John A. Tinney, Deborah Hill Biggers, and Thomas Dick, Representing State Farm Mutual Insurance Company —
Respondent

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Jacob C. Springer, US Army (Ret.)
Pro Se
619 LaFayette Highway
Roanoke, Alabama 36274
334-863-2667

QUESTIONS PRESENTED

1. Did the Defendants deprive me of my constitutional right to a trial by a jury, by conspiring to force me into a settlement to which I never agreed?

2. If a state court judicial officer arrives at his judgment based on conspiracy with attorneys wherein his orders protect them, should the individual conspired upon be allowed to have his case judicially heard by the Supreme Court of the United States?

3. Is the Rooker-Feldman Doctrine properly applied in my case where there has been no verdict rendered by a jury; there is no evidence of there ever having been a trial by a jury; nor is there any state case pending in the matter, nor any evidence of a state case pending?

4. When attorneys and Judges violate their oath by committing unconstitutional acts, does this not render all their actions, orders, etc. void and nullities?

5. Is a plaintiff afforded the opportunity to protect himself against a judgment issued by a state court judicial officer that is repugnant against both State and Federal Constitutions, where its judgment deprived the petitioner of the right to a trial by a jury that is secured by both constitutions?

LIST OF PARTIES

All parties appear in the caption of this case on the cover page.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Jacob C. Springer, U.S. Army (Ret), Pro Se, respectfully prays that a Writ Of Certiorari issue to review the judgment of the United States Court of Appeals for the Eleventh Circuit entered in this proceeding.

OPINIONS BELOW

Randolph County Circuit Court. The most egregious miscarriage of justice lies within Judge Steve Perryman's Forced Settlement Order, which was based heavily on the false declarations of Attorneys including my own Attorney who did not have my best interest at heart.

Judge Perryman relied on the false declaration by Attorney Thomas Dick, who represented to the court that I had agreed in writing to an offer of $100,000.00, which he was never able to produce.

Judge Perryman relied on the false declaration by Attorney John Tinney that BECAUSE I accepted a $5,000.00 cash advance from him, I was agreeing to the settlement offer of $100,000.00.

The Alabama Court of Civil Appeals dismissed the case because Judge Perryman failed to certify it under the Alabama Rule 54B of Alabama Rules of Civil Appeals.

The United States Court for the Middle District Of Alabama stated that they did not have subject-matter jurisdiction.

They relied on the **Rooker-Feldman Doctrine**. However, this notion arose, only after the "seed" was planted by Attorney John Tinney,

who was the first to file his Motion To Dismiss for failure to state a cause of action introducing this notion in his motion to dismiss. Thus, the United States District Court relied heavily on the declarations made by an Attorney who was no longer representing me, and thus, could not be viewed as an authority as to the status of the case.

It also seems that no one went back and checked the record to see what the true status of the case was.

The Eleventh Circuit Court of Appeals relied on **Rooker-Feldman** to dismiss my appeal. See Appendix A

After thorough review, the Eleventh Circuit Court of Appeals affirmed that the Attorneys and the Judge conspired against me, however, they still also affirmed the District Court's decision on the Rooker-Feldman Doctrine.

The question of conspiracy and mis-application of Rooker-Feldman has already been partially answered by the 11th Circuit Judges, who affirmed my position on these two issues.

How did Rooker-Feldman Doctrine apply to me when I have never been afforded a Trial by a Jury? How am I a State-Court Loser? How can my Appeal be considered a "Pre-Mature Appeal" when in Judge Perryman's decision he dismissed my case against Barbara Akin WITH PREJUDICE, and released the Defendant from all liability?

JURISDICTION

The United States Court of Appeals for the 11th Circuit rendered its decision on October 27, 2010.

This petition is timely filed within 90 days of that date. The Jurisdiction of this Court is Invoked under 28 U.S.C. 1254.

CONSTITUTIONAL AND REGULATORY PROVISIONS INVOLVED

United States Constitution
Seventh Amendment
Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

United States Constitution
14th Amendment
Amendment XIV
Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

United States Constitution
Article VI

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

STATEMENT OF THE CASE

On May 13, 2003, my family and I (including my wife, two daughters and myself) were involved in an automobile accident when Barbara Akins, a school bus driver for Randolph County Schools, failed to yield the right of way and crossed Highway 22, as we were traveling west on highway 22, and clearly had the right-of-way. According to Alabama Law, we believe that Ms. Akins was at fault. Thus, this should have clearly been a prima facae case.

As a result of that accident, both my wife, two daughters and I incurred injuries, and my wife and I were left with disabilities resulting from that accident.

We pursued recovery for our damages through litigation in civil action case number CV-2005-36. Case Number CV-2005-36 was filed in the Circuit Court in Randolph County, Alabama, and included a demand for a Jury Trial. The case started out with four (4) Plaintiffs: Jeanetta Stevens, Tianna and Qianna Stevens, and finally Jacob C. Springer. However, it was converted into three separate cases, all under CV-2005-36. In case one, involving Jacob C. Springer, Judge Perryman issued a "Forced Settlement". The second case, involving Jeanetta Stevens (Springer) was dismissed. The third case, involving Tianna and Qianna Stevens resulted in a Pro Ami.

Though the focus of this petition is my portion of the case, I stress that at the outset, this was a family tragedy, and it was never our intention to have the various aspects of this case separated the way they were. There are numerous other issues regarding my wife and daughters. But, I believe the manner in which I was treated to be most crucial, because it facilitated the mistreatment of my family. It takes away the ONLY eye-witness to the accident, and diminished the strength of our claims.

At every phase of this litigation, we believe the most critical aspects of this case have gone wrong, either through the negligence, errors, omissions or other unethical conduct of the attorneys, and their blatant lies and misrepresentations throughout this case.

It is my contention that all of their errors, omissions and lies have been intentional, malicious, and done in a way that forced me to conclude that their goal was to conspire to deprive

me of my constitutional right to a trial by a jury, and therefore, I have been forced to proceed on my own behalf on that basis.

Their untruthful declarations were relied upon by both the Lower and Appellate Courts to dismiss my complaint. Despite the fact that statements by Attorneys are not regarded as "testimony" and therefore inadmissible as "evidence" unless they are testifying under oath, their statements were nevertheless treated as evidence, and thus have contributed to the further deprivation of my right to receive fair and just compensation for my damages.

It is my assertion that this case, which should have been a simple matter of determining who was liable, and having a Jury decide the amount of any liability, has now turned it into a criminal case because of the unethical conduct of those who supposedly serve as officers of the court.

Now, they have "washed their hands" of the matter, and through their conduct and the answers they have submitted to the appellate courts, have no intention of being held accountable for their unethical conduct.

I do not believe my conclusions to be based on fiction, but upon the evidence that I have in my possession, as well as legal precedent.

And now, after nearly 8 years, we have never received just and fair compensation for our damages.

The following list summarizes everything that **"went wrong"** as follows:

1. We consulted with Attorney Deborah Biggers on May 14, 2003. It took her until June of 2006 before we saw any movement toward a resolution.

2. June, 2006 - Failed Mediation: In June, 2006, we met with the defendant for mediation, at which time, the Defendant offered $50,000.00. I had lost that much from work, and this offer was supposedly to cover all four plaintiffs' medical bills. Given the failed mediation, the case was then to be heard by a jury during the August term.

3. August & September 2006: Knowing that she had requested a continuation in order to accommodate her personal priority, Attorney Deborah Hill Biggers attempted to cover this up by lying to us about the court date being cancelled, and used my mother's passing as an excuse. On the 28th of August, we were told by Mrs. Biggers to return to the courthouse on August 30. My mother passed on August 29, so I cam back home to be ready for court that Wednesday. I received a call from Mrs. Biggers to tell me that Judge Young had cancelled our case. I explained to Mrs. Biggers that my mom had passed and that this was the only reason I came home – to be in court. I then went to the courthouse, where I spotted Judge Young in the hallway. I said "excuse me, Judge Young, my attorney called and said that you cancelled our case. We've been waiting a long time to have our day in court." Judge Young replied that the attorneys got with him on Monday, and asked for a continuance, because one of their children was going to school.

4. March 21 -22, 2007: During the trial and the "Mistrial" (Mrs. Biggers sat in court and failed or neglected to object a line of questioning that had been previously agreed-upon regarding issues that were not to be addressed during the trial). And the Judge allowed the defense to pursue a line of

questioning that was not supposed to be discussed at trial without any objections.

In the Judge's statement for mistrial, he said due to the introduction of testimony concerning the availability of insurance to cover a possible verdict for the plaintiff, a mistrial was asked for by the defendant counsel, and it was granted.

5. It was at this point Ms. Biggers abruptly terminated her services as our attorney.

6. I contacted Mr. Phillip Adams, the Attorney who had conducted our Mediation about representing us. He then stated that he could not take the case because there was a conflict of interest for any member of his law firm to take the case. He then, said that he would have someone call. This is when Mr. John Tinney called us. We signed a contract with Mr. Tinney on July 11, 2007. Mr. Tinney told us at that time, that he would not be able to go to the Fall Docket with this case which was due to come to trial in August, because he expressed skepticism about Judge Perryman charging a Jury. He then told us that we would go to court in March of 2008. On February 19, they did depositions, with Dr. Ron Hillary, and Ann Desmond, my resource manager at work; Mr. Tinney then stated to me that he was going to send Mr. Thomas Dick a demand letter.

7. On March 17, my wife and I went to Randolph County Courthouse, supposedly to appear at Trial. The clerk stated that the court case would not be tried that day. I was told that I needed to see my attorney, because the case was settled. We went to Mr. Tinney's office, he gave me a settlement offer from Attorney Dick, in the amount of $100,000.00. I read it and gave it back

to him and I told him "That was not enough." I had already lost that much or more from lost wages. Mr. Tinney then told my wife that her case would be heard in August. I made it clear to Mr. Tinney at that time that I would be going to trial with my family.

8. On the 24th of March, 2008, Mr. Tinney received money from the Uninsured Motorist Carrier Infinity), by threatening them with a $500,000.00 lawsuit. supplying them with a letter stating that he was willing have a case in my behalf in the matter of $500,000.00 or the $60,000.00 U.M. Coverage.

9. In Mr. Tinney's various responses to the courts, he has repeatedly made references to a $5,000.00 cash advance to me, as an indication that I accepted the $100,000.00 limit of liability, which I did not. As a matter of fact on that same day, I informed him of my intention to go to court with my family, later that year in August. Additionally, I had informed State Farm Mutual Insurance Company in writing of my intention to proceed with my trial in Federal Court.

10. Both Mr. Tinney and Mr. Dick have repeatedly claimed that on or about the 13 of March, I agreed to the $100,000.00 limit of liability and claimed to have an agreement that I signed, which has never been produced in any proceeding, but which both the Circuit Judge Perryman, and the Appelate Court judges have relied upon judges have relied upon to continue to deny me the right to a trial by a Jury.

11. On the 25th of April, 2008 I was told to come to Mr. Tinney's office. When I arrived at Mr. Tinney's office, he showed me a release order

releasing State Farm Mutual Insurance Company. After refusing to sign the order, Mr. Tinney threatened me by issuing a written demand that I remit $81,000.00 to his office by 5:00 PM the next day. He informed me that he would sign the document himself if I did not bring him the $81,000.00. I was given no option to refuse. Therefore I signed.

12. Attorney Thomas Dick went to the court requesting a "forced settlement."

13. At the same time that Attorney Thomas Dick's law firm was representing State Farm Mutual Insurance Company, they were ALSO representing my wife's brother, in an adversarial proceeding against my wife. The same Judge Perryman was the presiding Judge in both these cases.

14. Orders came for a forced settlement hearing.

15. A forced settlement hearing was supposedly heard, by Judge Perryman, however, there is no record of those proceedings, because the Court Stenographer got up and left the courtroom. The order by Judge Perryman, dated 16, June 2008 states that a hearing was conducted by court on 27 May, 2008. But, his clerk stated she never took any testimony for the Motion to enforce a settlement. Judge Perryman stated in his order that I agreed in writing, which I never did, nor can they produce any evidence of such agreement.

16. To date, there is no record of any of the proceeding that supposedly took place during the "Forced Settlement Hearing."

17. Ironically, at the same time I was forced into a settlement with State Farm Mutual

Insurance Company, my wife was adjudged to owe her brother the same (or nearly the same) amount of money in the adverse proceeding against her. How do we know that there was no conspiracy to ensure that these same funds would come right back to the same law firm.

18. Mr. Tinney accepted the case without letting us know that there was a potential conflict of interest in that he also served as the attorney for the Randolph County Commission -- which I ONLY LEARNED ABOUT some time after the forced settlement.

19. Mr. Tinney has claimed to not recall why he quit as our attorney. In his response to The Middle District Court, he claimed that "as far as he knows the case is still pending." Neither of these claims make any sense, because if he no longer represents us, how could he know what the status of the case is? Secondly, his statement that "the case is still pending" has been relied upon by the appellet courts to invoke the Rooker-Feldman doctrine, and to declare me a "State Court Looser", when I have never had a trial by a jury. Moreover, I was deemed to have filed a "Pre-Mature" Appeal when the case was dismissed June 30, 2009.

20. As a result, I have never received FAIR AND JUST compensation for my lost wages, future lost wages, medical expenses, future medical, nor pain and suffering.

21. I am still in possession of a check in the amount of $36,000.00 which I firmly believe that If I negotiate this check, it signifies my agreement with all these proceedings, to which I do not agree.

22. Before I filed any appeals, I asked Judge

Perryman to reconsider the decision of the forced settlement. I based this motion to reconsider on the fact that (1) there was a conflict of interest in that Mr. Tinney is the Attorney for the County and should not have accepted the case, and that (2) I did not have representation at the hearing. Judge Perryman completely ignored my motion and refused to answer.

23. After the Alabama Court of Appeals dismissed my claim, I again made the effort to address my issues with the attorney's unethical conduct through the Alabama Bar Association and Alabama's Judicial Inquiry Commission. Both Agencies responded that they could find no issues warranting their action. After receiving their responses, I asked each agency to reconsider their conclusions, and received correspondence from them affirming their prior responses.

24. At that point, since the evidence led me to conclude that the individuals (Judge Perryman, Attorneys Biggers, Tinney, and Dick) had conspired against me, and involved a State official, I then went to the highest court in the State of Alabama, The United States Court for the Middle District Of Alabama.

25. The Middle District Court dismissed my case for lack of subject-matter jurisdiction, using the Rooker-Feldman doctrine as the basis for that dismissal.

26. After filing with the 11th Circuit of Appeals, and complaining of the errors of the Middle District Court, they agreed that after thoroughly reviewing my brief that it was totally unfair for my case to be compared to the Rooker-Feldman doctrine. They also agreed that the Judge and the

three attorneys conspired against me. Yet it appears they upheld the Middle District Decision to dismiss the case merely because the lower court cannot overturn a state court's decision.

When taken together, this entire progression of events makes clear that the terms of this settlement were pre-determined, and agreed-upon, WITHOUT MY CONSENT, or involvement.

After this case being on the docket for 3 years (more or less), On February 13, 2008, the counsel for the defendant filed a motion to change their plea to "Contributory Negligence." Within a matter of hours, then, our Attorney, John A. Tinney filed an answer. The Judge heard arguments on this motion, the very next day, February 15. I waited five (5) years to go to court to have my case heard by a jury. My question then, if there was no manipulation going on in this case, is how could the judge hear and rule on the Defendant's motion to change her plea in less that 48 hours?

Then on March 6, 2008, the counsel for the defendant entered a settlement offer in the amount of $100,000.00. Then, in a letter dated March 13, Attorney Tinney wrote a letter to Attorney Tom Dick, accepting the settlement offer in the amount of $100,000.00. The very next day, which was Friday, March 14, counsel for the defendant obtained an order allowing the defendant to change her plea to "Contributory Negligence". But, Attorney Tinney never showed me the letter until Monday, March 17, which is the day I anticipated appearing in court, supposedly to have this case tried!

For me, the most compelling aspect of this issue lies in the fact that I am still in possession of the

check in the amount of $36,000.00, which I have never negotiated. It stands to reason that if I had agreed to the settlement, I would have cashed it when I first received it.

REASONS FOR GRANTING THE PETITION

At this point, since this case is against a circuit judge who's ruling can only be reversed by the Supreme Court of the United States, where else can I be made whole, but in the Supreme Court of the United States?

On the one hand, the Eleventh Circuit Court of Appeals agreed with my statement that Judge Steve Perryman and the Attorneys conspired together to deny me the right to have a jury trial. Yet on the other hand, upheld the lower court's decision.

The Middle District failed to answer the question that I asked them: "Did the order to force a settlement violate my constitutional rights to have a trial by a jury under the seventh amendment?" They then referenced my case to Rooker-Feldman Doctrine. The eleventh circuit upheld their decision under this doctrine, which leaves the question still unanswered. So if they conspired against me, that would mean that the lower court acted without jurisdiction and that its orders are void, as stated in ***Elliot v Lessee of Pier sol***, 26 U.S. 328 (1828). The Supreme Court found,

> "Where a Court has jurisdiction, it has a right to decide every question which occurs

> in the cause; and whether its decision be correct or otherwise, its judgment, until reversed, is regarded as binding in every other Court. But, if it act without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal, in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers."

The defendant lawyers acting in conspiracy with state actors under color of law, have become state actors in this case. The U.S. Supreme Court has ruled that "private parties", lawyers in this case, may be held to the same standard of "state actors" where the final and decisive act was carried out in conspiracy with a state actor or state official. See ***Dennis v. Sparks***, 449 U.S. 24, 101 S.Ct., 183 also See ***Adickes v. S.H. Kress & Co.***, 398 U.S.. 144, 90 S.Ct. 1598.

Since the defendants conspired against me, they also violated their oath which they swore to uphold. The Judge was bound by his oath to support the constitution and by him, using his office to conspire; the defendants in this case knew that though out the past eight years, all I wanted was to let a jury decide. I asked the Middle District Court if this case should be heard under First Impression, because there has never been a case that can so easily be proven to show misconduct as this case.

In forcing a settlement, wherein he had NO PROOF that an agreement was ever reached, he

did not have the authority to force a settlement.

Finally, there has NEVER been a Jury verdict in this case; and ULTIMATELY, I am still holding the check issued by the Circuit Clerk of Randolph County in the amount of $36,000.00, which I never negotiated because I never agreed to the settlement.

Why did I have to wait 5 years to have a Trial by a Jury, and Mr. Tom Dick was able to get a forced settlement hearing in less than 30 days?

As stated in ***Marbury v. Madison***, 5 U.S. 1 Cranch 137 137 (1803)

> "The oath of office, too, imposed by the Legislature, is completely demonstrative of the legislative opinion on this subject. It is in these words:
>
> "I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States."

Why does a judge swear to discharge his duties agreeably to the Constitution of the United States if that Constitution forms no rule for his government? if it is closed upon
him and cannot be inspected by him?

If such be the real state of things, this is worse than solemn mockery. To prescribe or to take this oath becomes equally a crime.

It is also not entirely unworthy of observation that, in declaring what shall be

the supreme law of the land, the Constitution itself is first mentioned, and not the laws of the United States generally, but those only which shall be made in pursuance of the Constitution, have that rank.

Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written Constitutions, that a law repugnant to the Constitution is void, and that courts, as well as other departments, are bound by that instrument.

> "The rule must be discharged." From ***Brinkerhoff-Faris Trust v. Hill*** (281 U.S. 673 50 S Ct 451),
>
> "Whether acting through its judiciary or through its legislature, a state may not deprive a person of all existing remedies for the enforcement of a right which the state has no power to destroy, unless there is, or was, afforded to him some real opportunity to protect it."
>
> As the Supreme Court of Connecticut has said: "Whether a Judge's conduct compromises the integrity of the court or lessens the public confidence in the judicial system can not turn on whether contempt can lie. By accepting this office, a judge undertakes to conduct himself in both his official and personal behavior in accordance with the highest standard that society can expect. That standard can not be gauged by whether the conduct is punishable by contempt." ***In re Dean***, 246 Conn. 183,

1896, 717 A.2d 176,183 (1998).

Beacon Theaters v. Westover; 359 U.S. 500 (1959), was a case decided in the Supreme Court dealing with Jury trials in civil matters. The Court held that where legal and equitable claims are joined in the same action, the legal claims must be tried by a jury before the equitable claims can be resolved.

In ***Scheuer v. Rhodes***, 416 U.S. 232 (1974), Chief Justice Warren Burger wrote in the Supreme Court opinion,

> "Whatever the plaintiffs may or may not be able to establish as to the merits of their allegations, their claims, as stated in the complaints, given the favorable reading required by the Federal Rules of Civil Procedure, are not barred by the Eleventh Amendment."

The Supreme Court wrote in ***Baylis v Travellers' Ins. Co***. 113 U.S. 316 (1885)

> "In this particular, the court thought error was well assigned. The right of a trial by jury in the courts of the United States is expressly secured by the Seventh Article of Amendment to the Constitution, and Congress has, by statute, provided for the trial of issues of fact in civil cases by the court without the intervention of a jury, only when the parties waive their right to a jury by stipulation in writing. Rev.Stat. §§ 648, 649. This constitutional right this Court has always guarded with jealousy." The Supreme Court cited in

Pierson v. Ray, 386 U.S. 547 (1967)

> "A judge is liable for injury caused by

ministerial act; to have immunity, the judge must be performing a judicial function. See e.g., ***100 U.S. 100 U.S. 339***; 2 Harper & James, The Law Of Torts, 1642-1643 (1956). The presence of malice and the intention to deprive a person of his constitutional rights he exercises no discretion or individual judgment; he acts no longer as a judge, but as a "minister" of his own prejudices." ***Cooper v Aaron***, 358 U.S. 3. "No state legislator or executive or judicial officer can war against the Constitution without violating his solemn oath to support it." (P. 358 U.S. 18).

CONCLUSION

This brings all parties back to the original questions posed to this court: 1. In ordering a forced settlement agreement, Did Judge Perryman violate my constitutional right to a trial by a jury? It is my firm belief that the only answer would have to be in the affirmative.

This being the case, the next question would follow is: If this is the case, then am I not entitled to have his judgment vacated, and thus affirm my right to have a trial by a jury?

I am asking the Supreme Court of the United States to find that all orders rendered in Case Number CV-2005-036 by Judge Steve Perryman for the forced settlement, the dismissal, and the Pro Ami be vacated.

I pray that my Writ of Certiorari be granted. I have been waiting almost eight (8) years to have

this civil matter concluded. The Supreme Court of the United States is asked to restore my rights to me. I thought that all the men and women here that are involved in my case took their oath to the constitution seriously as it is the supreme law of the land. The individuals involved in my case don't seem to care that the decision that they made have hurt a lot of people. It hurts to find out that the same thing you swore to defend; they are trying to take away by acting in conspiracy with each other. After serving this country for over twenty (20) years and being honorably discharged/retired, they have seriously contested my integrity and oath to support the constitution of the United States.

"Injustice anywhere is a threat to justice everywhere." (Martin Luther King, Jr.)

"Withhold not good from them to whom it is due when it is in the power of thine hand to do it."
(Proverbs 3:27)

Respectfully Submitted, February 2011

JACOB C. SPRINGER
U.S. Army (Ret), ***Pro Se***
619 LaFayette Highway
Roanoke, Alabama 36274
334-863-2667

APPENDIX A

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

NO: 10-12059
Non-Argument Calendar

D.C. Docket No. 3:10-cv-00014-WKW-SRW

JACOB SPRINGER, US Army (Ret.),
Plaintiff-Appellant

versus

STEVE PERRYMAN, Circuit Court Judge for Randolph Co., Circuit Court
JOHN A. TINNEY, Attorney
DEBORAH HILL BIGGERS,
THOMAS E. DICK, representing State farm Mutual Insurance Co.
Defendants-Appellees

Appeal from the United States District Court For the Middle District Of Alabama

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(October 27, 2010)

Before BARKETT, MARCUS and ANDERSON, Circuit Judges.

PER CURIAM:

Jacob Springer, **pro se**, appeals the district court's dismissal of his civil rights complaint, filed pursuant to 42 U.S.C. § 1983, for lack of subject matter jurisdiction based upon the **Rooker-Feldman** doctrine.[1] Springer's § 1983 complaint arose from the denial of his premature appeal of a state circuit court's grant of a motion to enforce settlement against Springer, and named Randolph County circuit court Judge Steve Perryman, defense attorney Thomas E. Dick, and his former attorneys John A. Tinney and Deborah Hill Biggers as defendants. On appeal, Springer generally argues that the district court erred in dismissing his case because his constitutional rights were violated, the judges and attorneys involved with his case conspired to prevent his case from moving forward, he was entitled to a jury trial as secured by the Seventh Amendment, and it "was totally unfair" for his case to be compared to the **Rooker-Feldman** doctrine. After thorough review, we affirm.

We review "dismissals for lack of subject matter jurisdiction **de novo**," **Nicholson v. Shafe**, 558 F.3d 1266, 1270 (11th Cir.2009). "Pro se pleadings are held to a less stringent standard than pleadings drafted by attorneys and will, therefore, be literally construed." Tannebaum v United States, 148F.3d 1262, 1263 (11th Cir. 1998). The party invoking federal subject matter jurisdiction bears the burden of proving its existence. See **Sweat Pea Marine, Ltd. V. APJ Marine, Inc.**, 411 F.3d 1242, 1247 (11th Cir. 2005).

The **Rooker-Feldman** doctrine provides that "lower federal courts are precluded from exercising

appellate jurisdiction over final state-court judgments."

Nicholson, 558 F.3d at 1268 (quotation omitted). In **Exxon Mobil v Saudi Basic Indus. Corp.**, 544 U.S. 280, 284 (2005), the Supreme Court cautioned against broadly construing **Rooker-Feldman** and held that the doctrine be confined only to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments."

Rooker-Feldman's reach extends to federal claims raised by the state-court loser that are deemed to be "inextricably intertwined" with the state court judgment. **Casale v Tillman**, 558 F.3d 1258, 1260 (11th Cir. 2009). We have advanced two scenarios where a federal claim is considered inextricably intertwined with the state court judgment: (1) where the success of the federal claim would "effectively nullify" the state court judgment; and (2) where the federal claim "succeeds only to the extent that the state wrongly decided the issues." **Id**. (quotations omitted).

Here, the district court did not err in concluding that **Rooker-Feldman** barred Springer's civil rights complaint because, squarely within the language of **Exxon Mobil**, he was a state-court loser who sued in federal court to complain of injuries caused by the state-court judgment that was rendered before the filing of his federal complaint. See **Nicholson**, 558 F.3d at 1268, 1270. To the extent that Springer couches his complaint in terms of independent constitutional claims against the defendants, we hold that those

federal claims are inextricably intertwined with the Randolph County Circuit court's granting of the motion to enforce the settlement and, thus, still fell within the confines of the **Rooker-Feldman** jurisdictional bar. **See Casale**, 558 F.3d at 1261. Accordingly we affirm.

AFFIRMED.

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[1]Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); D.C. Court of Appeals v Feldman, 460 U.S. 462 (1983).

APPENDIX B

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA EASTERN DIVISION

CASE NO: 3:10-CV-14-WKW

JACOB SPRINGER, *Plaintiff*
vs.
STEVE PERRYMAN, Circuit Court Judge, et al., *Defendants*

April 6, 2010, Decided

FINAL JUDGMENT

In accordance with the prior proceedings, opinions, and orders of the court, it is the ORDER, JUDGMENT, and DECREE of the court that this action is DISMISSED for lack of subject matter jurisdiction.

The Clerk of the Court is DIRECTED to enter this document on the civil docket as a final judgment pursuant to Rule 58 of the Federal rules of Civil Procedure.

Done this 6th day of April, 2010.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE

RECORD
AND
BRIEFS

Supreme Court, U.S.
FILED
JUN 2 - 2011
OFFICE OF THE CLERK

(2)

Docket Number 10-1126

In The

Supreme Court of the United States

JACOB C. SPRINGER, US Army (Ret.) —
Petitioner

v.

STEVE PERRYMAN, IN HIS OFFICIAL CAPACITY AS CIRCUIT JUDGE, RANDOLPH COUNTY, ALABAMA, JOHN A. TINNEY, DEBORAH HILL BIGGERS, And THOMAS DICK, REPRESENTING STATE FARM MUTUAL INSURANCE COMPANY —
Respondent

ON A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR REHEARING

Jacob C. Springer, US Army (Ret.),
Pro Se
619 LaFayette Highway
Roanoke, Alabama 36274
334-863-2667

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Miscellaneous

1. Principle of *Stare Decisis*

PETITION FOR REHEARING

Pursuant to Rule 44 of the Supreme Court Rules, Petitioner Jacob C. Springer, U.S. Army (Ret), Pro Se, respectfully petitions this court for Rehearing.

Petitioner respectfully request that the Supreme Court also take into account other aspects of this case, not emphasized in the Writ, but that nevertheless weigh just as heavily as those that were expounded upon in the Writ of Certiorari.

1. Failure of the respondents to respond to the Writ of Certeriori

2. Violation of my due process rights

3. Insufficient representation rendered Perryman's judgment non-binding

4. The Principle of Stare Decisis

The failure of all the respondents named in the petition to respond to my Writ of Certiorari, has served to concurrently deny me the right to be heard.

By the individuals choosing to waive their right to respond to a complaint registered against them, where is their loyalty to the Constitution? In particular with respect to Judge Perryman, who has a duty to God to look out for the poor as well as the rich; by hiding behind the protection of the Fifth Amendment, this leaves questions unanswered as to his dedication and integrity to the Constitution, and places two Constitutional rights, the 5th and the 7th Amendment squarely at odds.

Additionally, aside from my Constitutional right to a Trial by a Jury, this case also fails on another front: namely, Due Process of Law. This case has progressed through several appeals, without any regard to any of the errors in due process of law.

The Supreme Court has held that "a fundamental requirement of due process is 'the opportunity to be heard.' "It is an opportunity which must be granted at a meaningful time and in a meaningful manner." Armstrong v. Manzo, 380 US 545, 552 (1965).

It is my strenuous assertion that the refusal of the respondents to answer the Writ further renders me completely devoid of all due process rights with respect to any quest for a satisfactory resolution of this case.

In RICHARDS ET AL. v. JEFFERSON COUNTY, ALABAMA, ET AL - 517 U.S. 793 (1996), The Supreme Court in a unanimous decision authored by Justice John Paul Stevens, ruled that because Richards and others received neither notice of, nor sufficient representation in, the Bedingfield litigation, that adjudication, as a matter of federal due process, may not bind them and thus cannot bar them from challenging an allegedly unconstitutional deprivation of their property.

> "We are not now concerned with the rights of the plaintiff on the merits, although it may be observed that the plaintiff's claim is one arising under the Federal Constitution and, consequently, one on which the opinion of the state court is not final .... Our present concern is solely with the question whether the plaintiff has been accorded due process in the

> primary sense,-whether it has had an opportunity to present its case and be heard in its support .... [W]hile it is for the state courts to determine the adjective as well as the substantive law of the State, they must, in so doing, accord the parties due process of law. Whether acting through its judiciary or through its legislature, a State may not deprive a person of all existing remedies for the enforcement of a right, which the State has no power to destroy, unless there is, or was, afforded to him some real opportunity to protect it." Id., at 681-682.

While this particular case was related to a property tax issue, the central theme revolved around deprivation of the petitioner's due process rights as a result of insufficient notice and insufficient representation. However, ultimately the whole court clearly agreed that both these factors served to deprive the petitioner's from the right to be heard and in effect rendered the lower court's judgment non-binding.

While my case differs from the above case in terms of subject matter, it is very similar in that I was without representation when the "Forced Settlement" hearing was allegedly conducted.

The irony of this Writ also lies in the fact that technically, there are no facts to re-examine, because there has never been a trial, there has never been any facts entered into the records, and no jury Forman verdict forms.

It is my position that when Attorney Thomas Dick entered a motion for a mis-trial, and it was granted and the jury dismissed, this case should have be re-scheduled for trial on the next docket, and proceeded accordingly.

Instead, a year later, Attorney Dick moved for a "forced settlement" hearing and it was granted, without due process of law.

The failure of the respondents to respond is clearly incriminating. If there was no conspiracy, no unethical conduct, no judicial mis-conduct, then the logical question is "Why would all the respondents waive their right to respond?"

The U.S. Supreme Court has upheld that "the action against ... private parties accused of conspiring with the judge is not subject to dismissal. Private persons, jointly engaged with state officials in a challenged action, are acting "under color of law..."

"...Historically at common law, judicial immunity does not insulate from damages liability those private persons who corruptly conspire with a judge..."

Finally, Petitoner strongly beseeches the court to take into account, CBOCS West, Inc. v. Humphries, a Supreme Court case which relied heavily on the principle of stare decisis, or adherence to prior Court decisions, in reaching its conclusion.
The Court has been provided an abundance of case law, which clearly indicates that the principle of Stare Decises should govern its decision in this case as well.

CONCLUSION

By virtue of respondents' failure to respond to the Writ of Certiorari, and the failure of due process, this case is due to be re-examined by the Supreme Court.

Either way we look at this whole case, whether as lay-persons, or legal professionals, the fact that three Judges from the 11th Circuit — Barkett, Marcus, and Anderson — agreed with me after examining the evidence, that my assertions were true; and then four Justices agreed the case was cert worthy, is strong enough to warrant re-examination and/or rehearing.

At the same time, the petitioner was required to mail each respondent a copy of a waiver. Once the individuals received the waiver, they had the option of either answering the complaint or waiving the right to respond – which they all did.

Now that they have waived their rights, this leads to the question, "What have they done so incriminating that would cause them to waive their rights?"

Petitioner Jacob C. Springer, Pro Se further believes it to be in the public interest for this case to be thoroughly reviewed, because inherent in this case is the likelihood that any citizen's Constitutional rights can be abridged by Judges acting in concert with unethical attorneys.

Since this was a Civil action, this question can only be answered by granting a rehearing and compelling the respondents to answer.